

Middlesex County Wetlands Board Minutes

December 14, 2004

Call to Order

The December 14, 2004 meeting of the Middlesex County Wetlands Board was called to order by Chairman Miller Smither at 9:00 A.M. in the Boardroom of the Woodward Building, Saluda, Virginia.

Present: Mr. J. Miller Smither – Chairman
Mr. B. Ulman Miller – Vice Chairman
Mr. M. Dale Taylor
Mr. Woodson Armstead
Mrs. Mary Ann Willis

Absent: Mr. Archie Brooks

Staff present: Amy Easterbrook, Planner
Cathy Shiflett, Planning Department Secretary

Also present was Mr. Robert Neikirk from the Virginia Marine Resources Commission (VMRC).

Minutes

The Board considered the minutes of the November 9, 2004 meeting. On a motion by Mr. Miller, and a second by Mr. Armstead, the minutes were approved unanimously.

Public Hearing

Chairman Smither opened the public hearing, and the Middlesex County Wetlands Board took action on the following applications:

A. Steve Esbach - Application #2004-2155.

Chairman Smither read the applicant's proposal requesting to install 480' of riprap revetment for erosion control. This project is located on LaGrange Creek, at Tax Map # 14-8-3. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Ms. Alor Grantham, agent, was in attendance to represent the project. She explained there would be minimal impacts to the wetlands.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, Application #2004-2155 was approved as submitted. This approval is valid for a term of 18 months.

B. William Hartley - Application #2004-2246.

Chairman Smither read the applicant's proposal requesting to install 116' of riprap revetment for erosion control. This project is located on Meachim Creek, at Tax Map # 29A-1-4B. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Craig Pawbinski, Bayshore Design, agent, was in attendance to represent the project. He noted that adjoining property owners had been notified, and there were no objections.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mrs. Willis, and carried by unanimous vote, Application #2004-2246 was approved as submitted. This approval is valid for a term of 18 months.

C. Laura Burnside - Application #2004-2247.

Chairman Smither read the applicant's proposal requesting to install 134' of riprap revetment for erosion control. This project is located on Meachim Creek, at Tax Map # 29A-1-4D. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Craig Pawbinski, Bayshore Design, agent, was in attendance to represent the project. He noted that adjoining property owners had been notified, and there were no objections.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2247 was approved as submitted. This approval is valid for a term of 18 months.

D. Steve Esbach - Application #2004-2286.

Chairman Smither read the applicant's proposal requesting to install 160' of marsh toe revetment. This project is located on the Rappahannock River, at Tax Map # 9A-5-1. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Jay Foster, R & W Marine, agent, was in attendance to represent the project. Mr. Foster explained the project was necessary to control storm erosion.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Taylor, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2286 was approved as submitted. This approval is valid for a term of 18 months.

E. Ernest Haywood - Application #2004-2155.

Chairman Smither read the applicant's proposal requesting to reconstruct existing low profile groins as continuous height, 20' T-ends to be added to the groins and cells to be nourished, and attach the existing jetty to the riprap revetment with a 48' continuous height groin. This project is located on the Rappahannock River, at Tax Map # 40-104-21. Staff then read the VIMS report for the project.

Ms. Alor Grantham, agent, and Mr. Ernest Haywood, applicant, were in attendance to represent the project. Ms. Grantham explained that the low profile groins did not hold during the hurricane and needed repair. Ms. Grantham expressed her view that the project would improve conditions in the Sturgeon Creek channel.

Chairman Smither opened the public hearing.

With there being no comment from the public, the hearing was closed.

Mr. Taylor commented that it was uncertain what the effects of the project would be.

Chairman Smither stated his desire to allow the property owner to protect his property. He explained it was not known what caused the problem, and there was no assurance of how forces of nature would affect the sand with the project as proposed.

Mr. Haywood stated he was going on recommendations to try to preserve the point. He stated that sand placed in front of the house had been washed out within two weeks of dredging.

Mr. Taylor expressed concern that the project would cause wave action in front of the house.

Mr. Neikirk commented that the groin T-heads were designed to try and break wave action, and stop erosion.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2318 was approved as submitted. This approval is valid for a term of 18 months.

F. Dorothy Thomasson Estes Trust c/o John Grover - Application #2004-2319.

Chairman Smither read the applicant's proposal requesting to install a total of 68' of riprap revetment in front of existing bulkheads, remove all existing groins and replace with four 48' low-profile groins, remove existing jetties and replace with a 19' and 80' riprap jetty. This project is located on the Rappahannock River, at Tax Map # 27-157. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Joey Scott, agent, was in attendance to represent the project.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Armstead, seconded by Mrs. Willis, and carried by unanimous vote, Application #2004-2319 was approved as submitted. This approval is valid for a term of 18 months.

G. Ray Harrison - Application #2004-2342.

Chairman Smither read the applicant's proposal requesting to install an 80' bulkhead with two return walls, 10' and 17', the new bulkhead to be placed immediately in front of the existing bulkhead. This project is located on Jackson Creek, at Tax Map # 40-149B. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Joey Scott, agent, was in attendance to represent the project.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2342 was approved as submitted. This approval is valid for a term of 18 months.

H. Brian Vest - Application #2004-2436.

Chairman Smither read the applicant's proposal requesting to install 120' of new bulkhead channelward and against an existing bulkhead. The existing return wall will be removed and replaced with a 12' return wall with riprap scour placed along the existing bank. This project is located on Meachim Creek, at Tax Map # 30A-9-4. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Joey Scott, agent, was in attendance to represent the project. Mr. Scott explained
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With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2342 was approved as submitted. This approval is valid for a term of 18 months.

I. Stan Whitehead - Application #2004-2443.

Chairman Smither read the applicant's proposal requesting to install an 80' bulkhead with two return walls, 10' and 17', the new bulkhead to be placed immediately in front of the existing bulkhead. This project is located on Jackson Creek, at Tax Map # 40-149B. Staff then read the VIMS report for the project.

Chairman Smither opened the public hearing.

Mr. Joey Scott, agent, was in attendance to represent the project.

With there being no comment from the public, the hearing was closed.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-2342 was approved as submitted. This approval is valid for a term of 18 months.

Old Business

A. Grey's Point Campground, Hurley LLC - Application #2004-1649.

Chairman Smither read the applicant's proposal requesting to construct a 460' pier with arch and a 240' pier with two adjoining piers, one 240' with 40 slips and the other 360' with 60 slips, each with 60' T-heads. This project is located on Meacham Creek at Tax Map 30-103. Staff then read the VIMS report for the project.

Ms. Alor Grantham, agent, was in attendance to represent the project. Ms. Grantham explained the revised drawings submitted. She further explained the slips were to accommodate camp residents, with some slips unassigned, for use by weekend campers who store their boats at the campground. Ms. Grantham explained that the open dock would be used for recreational use, such as crabbing, and possibly for kayaks, paddleboats, and canoes.

Chairman Smither opened the public hearing.

Mr. Bruce Cox, property owner across the cove, stated his opinion that the scope of the proposed project was disproportional to the size of the creek. He further commented that a sand bar extended into the water, which made wide turns necessary for boaters. Mr. Cox further expressed concern regarding increased boat traffic in the creek.

Mr. Raymond Jones, property owner across the cove, stated he had expected to see the revised drawings prior to the meeting. Mr. Jones requested that adjoining property owners be provided copies of revised drawings and that stakes be placed in the creek depicting the proposed location off the project as proposed.

Chairman Smither stated that stakes were not placed in the water as requested by the Board. He stated that stakes should be placed in accordance with the revised drawings as submitted.

With there being no further comment from the public, the hearing was closed.

Ms. Grantham stated that she was not present at the last meeting and was not aware of the requests. She requested continuation of the project and stated she would see that the project was staked and would provide information to the neighbors.

Chairman Smither stated he wanted to see a drawing to scale, and the location of the piers in the water.

On a motion by Mr. Taylor, seconded by Mr. Miller, and carried by unanimous vote, Application #2004-1649 was continued until the December meeting to allow the agent to stake the project and notify adjoining property owners.

B. Bethpage Camp Resort c/o Walt Hurley - Application #2004-1808.

Chairman Smither read the applicant's proposal requesting to construct a 225' x 5' pier for the temporary mooring of boats, add a 20' x 5' extension to the existing pier, and relocate 4 mooring piles. This project is located on Robinson Creek at Tax Map 19-228. Staff then read the VIMS report for the project.

Ms. Alor Grantham, agent, was in attendance to represent the project. She explained that the applicant hoped to use the proposed pier for small crafts, and loading/unloading. She explained her understanding from the previous meeting was that the pier should be pulled in, leaving more creek area open, and construct it closer to the bank, out of Mrs. Henry's line of sight.

Chairman Smither opened the public hearing.

Mr. Noel, Mrs. Henry's son, stated his belief that Mr. Hurly, at the previous meeting, had agreed to shorten the pier and make an L-shape, that the pier would not be used for power boats, and the proposed location would be marked in the water.

Chairman Smither noted the minutes did not reflect reference to an L-shape pier.

Ms. Grantham stated she had placed stakes in the water a week ago. Ms. Grantham stated her belief the revision was intended to place the pier closer to the shoreline, as depicted in the revised drawings.

Chairman Smither noted there was misunderstanding about the use of power boats, and stated the Board had tried to address Mrs. Henry's concerns. He further noted the Board did not receive revised drawings prior to the meeting.

Mrs. Easterbrook stated her recollection that Mr. Hurley had offered to shorten the pier, and move it closer to the shoreline.

Mr. Taylor stated his agreement.

Ms. Grantham asked if the pier were shortened, would small watercraft still be allowed behind the pier.

Chairman Smither noted the larger problem was that the Board was not receiving the proper information to make informed decisions, creating unnecessary delays. He stated concern that applicants agree to address concerns, but failed to do so. Chairman Smither further commented that the Board did not want to vote if flags, poles, drawings, etc., were not adequate.

Mr. Taylor stated his concern that wetlands were not disturbed.

Chairman Smither advised Ms. Grantham to have the project marked, and submit revised drawings prior to the next meeting. He expressed concern that the project scope kept changing.

Mrs. Willis noted that the Board reviews information and listens to people, returns to sites, and attempts to make a decision. She agreed with Chairman Smither that it is difficult to make a decision if not provided adequate information in advance.

Ms. Grantham commented that she would like to speak with her client in regards to how to proceed.

Mr. Noel stated regarding the number of meetings for this particular project. He also questioned whether the newly revised drawing was to scale. Mr. Noel suggested that the Board deny the permit and have the applicant resubmit.

Chairman Smither related that the Board could not tell an applicant how to proceed. He stated that an applicant submits the application, the Board reviews, and the project can be continued if necessary.

On a motion by Mr. Miller, seconded by Mr. Armstead, and carried by unanimous vote, Application #2004-1808 was continued until the December meeting.

C. Glenn Bunch for Tri-County Farms, Ltd.– Application #2004-1985.

Chairman Smither read the applicant's proposal requesting to change the existing private use facility to Commercial Use, extend existing pier 200' x 5' with two adjoining piers, one 250' x 6' with six 20'x3' finger piers and a 40' x 6' L-head to create 13 slips the second pier to be 120' x 6' with two 40' x 6' piers and eight 20' x 33' finger piers to create 17 slips. Wave screen totaling 415' proposed from the end of the north jetty to the far end of the proposed pier. Existing groin adjacent to pier will be reconstructed as a 73' jetty, another 73' jetty is proposed to the north, both will be capped with steel tracts for a travel lift. Forklift pad proposed for launching dry storage boats. Proposed 612 cubic yard dredge area channelward of fork lift pad and existing boat ramp. The property for which the application is being made is located on the Rappahannock River, Tax Map #27-170.

Ms. Alor Grantham, agent, explained the project and presented photographs of a wavescreen on the Severn River, similar to those proposed by the applicant.

Chairman Smither commented that wave activity in the Rappahannock was different than activity in the Severn River.

Mr. Bunch, applicant, expressed agreement, but noted that the structures had endured Hurricane Isabel. He contended the structures would endure if built massively enough.

Chairman Smither opened the public hearing.

Ms. Janet Smith, Hartfield, expressed concern that while Mr. Bunch had recently removed proffers for development of the upland property due to non-development, he was now proposing development on the property. She questioned how the proposed project would affect upland property.

With there being no further comment from the public, the hearing was closed.

Mr. Taylor asked Mr. Neikirk his opinion of the project,

Mr. Neikirk related that the Severn River wave screen was built 10-12 years ago, not according to plans, but, modified to allow water to pass through. He noted there were other types of devices, such as concrete floating piers, used to knock wave energy. Mr. Neikirk further commented that VIMS questioned the extent of the effectiveness of the proposed wave screen.

Mr. Taylor questioned the impact on the shoreline to adjacent property owners up and down stream.

Mr. Armstead noted that considering the amount of shoreline Mr. Bunch owns, any impacts would be to his own property, more so than adjoining properties.

Chairman Smither expressed concern that the sand would build up, with perhaps a lot of dredging required, and considering that Hurricane Isabel breached the shoreline berm, what would that type of wave action do to the wave screen structure.

Mr. Bunch explained the goal would be to get boats in and out of the water, and utilize the existing farm buildings to repair boats. Mr. Bunch stated he wanted the pier extended so there would be sufficient water at the end of the dock to get boats out of the water. He further explained that if sand were attracted at the end of the pier, he would want to remove the wave screen. Mr. Bunch stated his belief that if the structure built massively enough, wave action would be reduced. He stated that financially, he would not want to have to dredge to keep the sand out.

Mr. Armstead commented while there was no experience with this type of structure in this area, he did not see anything wrong with trying.

Mr. Bunch stated that if he could just get boats in and out of the water to work on, and use the buildings, he would be satisfied. If sand accumulates, there would be no future in the project, he noted.

Mrs. Easterbrook urged caution in approving the wave screen on the basis of removal if it did not work as anticipated.

Mr. Taylor commented that if a Hurricane were to destroy the structure, Mr. Bunch could get a permit for repair. However, Mr. Taylor questioned what effect the structure would have on the shoreline if it failed during a storm.

Mrs. Willis noted that the VIMS recommendation recommended that impact studies be conducted. She questioned who would provide such studies.

Mrs. Easterbrook explained that it was unclear what would happen to the drift of sand along the shoreline and the VIMS expert, Dr. Hardaway, did not have time to address the issue. She additionally noted that Dr. Hardaway does not work in the VIMS department with the Board's VIMS staff representative, Mr. David O'Brien.

Mr. Bunch stated he would be glad to check with VIMS regarding an impact study.

Ms. Grantham questioned whether a portion of the wave screen structure could be built, perhaps 50' past the existing pier, which would be farther off shore than the breakwaters.

Chairman Smither commented that if the wave screen were reduced, the impact would not be the same. Chairman Smither stated that he would like to see an attempt made to gather as much information as possible regarding impacts.

Mr. Bunch questioned whether he could continue investigating the wave screen effects; yet begin working on getting boats in and out of the water.

Mr. Taylor recommended doing the entire project or none of the project. Mr. Taylor commented that if approved, Mr. Bunch should be willing to take responsibility for the wetlands, being sure to clean up any storm damage/debris.

Mr. Taylor made a motion to approve Application #2004-1985 with the understanding that Mr. Bunch would take responsibility to maintain the marina and protect wetlands by cleaning up any storm damage.

There was no second to the motion.

Mr. Taylor made a motion to require a study by an appropriate agency do determine wave screen effects.

Mrs. Willis asked if the cost of a study would be borne by Mr. Bunch if not performed by VIMS.

Mrs. Easterbrook commented that if required, Mr. Bunch could request that VIMS perform a study. She further commented that if VIMS could not perform the study, Mr. Bunch would have to contact a consulting firm.

Mr. Armstead seconded the motion.

Mr. Bunch commented that if he could have approval to get boats in and out of the water in the meantime, he would look into having a study done and would pursue the wave screen and slips at a later date.

Chairman Smither questioned whether the Board could approve a reduced scope with new drawings.

Mr. Neikirk stated that if the wave screen and slips were removed from the proposal, the Board could approve the travel lift, fork lift pad and bulkhead.

Mr. Bunch asked for approval of the main pier extension 200' x 5', the travel lift and jetties, the fork lift pad and bulkhead, without the L-head and pier extensions, slips, and wave screens.

The Board unanimously voted not to require a study.

On a motion by Mr. Armstead, seconded by Mr. Miller and approved by unanimous vote, the Board voted to approved revised Application #2004-1985 to include the travel lift, fork lift pad and bulkhead, 200' extension of the pier, 73' jetties, no slips, no L-head piers, no wave screen, with revised drawings to be submitted. This approval is valid for a term of 3 years to be issued upon VMRC approval.

New Business

A. Changes to By-Laws regarding Alternate Wetlands Board Members.

Chairman Smither stated that the Board of Supervisors had agreed to appoint alternate Wetlands Board members, and procedures were adopted into the By-laws.

Mrs. Easterbrook explained that in cases that are continued over several months time, the alternate should serve until a decision has been made. She stated that verbage would have to be added to the By-laws, and forwarded to the Board of Supervisors.

On a motion by Mr. Miller, seconded by Mr. Taylor, and carried by unanimous vote, the Wetlands Board voted to amend the By-laws to allow alternate Board members to continue serving when cases are continued until a decision has been made.

B. Total Maximum Daily Load (TMDL)

Mrs. Easterbrook explained that she recently attended a public meeting regarding forthcoming pollution standards (TMDL's) to be enacted. She related that while local Wetlands Boards and Health Departments would be granted additional power for enforcing pollution standards, no additional funds would be provided. Mrs. Easterbrook offered to inform the Board of upcoming public meetings related to the TMDL's.

Adjournment

With no further business to discuss Mr. Taylor moved to adjourn the meeting, seconded by Mr. Armstead, meeting was adjourned unanimously.

Respectfully submitted,

Wetlands Board Chair

Date